

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2877 OF 2006

Ms. Neelam K. Tripathi ..Petitioner

Vs.

The State of Maharashtra and ors. ..Respondents

Mr. S.M. Oak for petitioner.

Mr. Ashutosh Gole h/f Mr. M.S. Lagu for respondent
no.5.

CORAM: B.H. MARLAPALLE, J.

Date : August 28, 2006.

P.C.:

1. Heard Mr. Oak the learned counsel for the petitioner who claims to have been appointed as a Clerk in the respondent no.5-school with effect from 13/6/2000. The Division Bench of this court while deciding Writ Petition No.4557 of 2005 by its order dated 1/12/2005 had directed the Education Officer, Secondary, Zilla Parishad, Thane to conduct an inquiry and record his findings on the issue of the appointment of the petitioner and more particularly whether the said appointment was made by following the provisions of the M.E.P.S. Act 1977 and the M.E.P.S.

Rules 1981. Consequently, the Education Officer, Secondary, Zilla Parishad, Thane issued notices to all the parties, including the Head Mistress, the Secretary and Vice President of the Management-Society and on 1/2/2006 when the issue was heard all the parties were present including the petitioner before the Education Officer. The President of the Society at the threshold had clarified that there was no vacant post of Clerk in the school when the petitioner was appointed and none of the Clerks in service were removed and the said appointment was made in anticipation that the vacancy would arise in future. Head Mistress Mrs.Kalinidi K. Ray could not produce any record to show that the petitioner was appointed against the vacant post, advertisement was released, applications were received, interviews were held by a selection committee constituted as per the Rules and along with the candidates who appeared for interview, the petitioner had also appeared and she was selected to be the better candidate amongst all others. The Education Officer, therefore, recorded a finding that the prescribed procedure was not followed when the petitioner was appointed and at the relevant time

there was only one post of Clerk sanctioned and the said post was already occupied by someone else. On these obtaining circumstances, the Education Officer held that the appointment of the petitioner was made only with an intention to give benefit to the petitioner and, therefore, he held that he could not approve the said post, vide his order dated 27/2/2006, which order has been impugned in this petition.

2. No material is placed on record even to prima facie hold that the findings recorded by the Education Officer are perverse or grossly erroneous so as to call for interference while exercising the supervisory powers under Article 227 of the Constitution.

3. Hence, the petition is rejected summarily.

(B.H. Marlapalle, J.)